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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,774	08/31/2001	Anthony Robert Thomas	82001-0194	9205

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EXAMINER

SNAPP, SANDRA S

ART UNIT PAPER NUMBER

3624

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/942,774

Applicant(s)

THOMAS ET AL.

Examiner

Sandra Snapp

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 & 7. 6) ☐ Other: \_\_\_\_\_

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### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it exceeds the 150 word limit.

Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 24 and 27-34 are rejected under 35 U.S.C. 102(b) as being anticipated by the Barni et al. patent. The Barni et al. patent discloses a method for negotiating transactions regarding the exchange of transportation services comprising:

Establishing an electronic exchange that enables buyers to schedule desired services according to transaction catalogs (col. 3, lines 12-48);

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The ability to place bids on transportation capacity being auctioned by sellers in seller's auctions (col.3, lines 12-48); and

The ability to conduct a buyer's auction enabling sellers to place bids on the right to perform the desired services of the buyers (col. 3, lines 12-48); and

Having an electronic exchange that enables auctions to either be non-public or public wherein preferred trading partners can place bids on the particular transportation capacity being auctioned ('prefer registered customers', col. 3, lines 35-48 and col. 7, lines 46-54).

Although the Examiner has only listed representative elements from various claims, all the elements for the above stated claims are anticipated by the Barni et al. reference.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22, 25-26 and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Brown patent (US 5,794,219) in view of the Barni et al. patent (US 6,064,981). The Barni et al. patent discloses an electronic market for negotiating transactions having:

An auction transaction system (col. 1, lines 9-20 and col. 6, lines 19-26);

A catalog transaction system (col. 3, lines 35-38);

A means for the buyer and sellers to communicate with the auction and catalog system (col. 3, lines 12-34);

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Quoted rates and auctions can be optionally made available only to the preferred trading partners (col. 4, lines 37-41);

An execution system allowing buyers and sellers to execute transactions, sends electronic orders, receives updates and sends e-mail messages (col. 4, lines 58-68, col. 3, lines 35-48, col. 6, lines 66-67 and col. 7, lines 1-11); and

The auction terms can be electronically accepted (accept button, col. 6, lines 66-67 and col. 7, lines 1-11).

The Examiner takes official notice that private auctions and public auctions are well known in the art and therefore not novel.

Barni does not disclose a system wherein the buyers and sellers are capable of designating selected other buyers and sellers as preferred trading partners. The Brown patent teaches an auction system wherein the buyers and sellers are capable of designating selected other buyers and sellers as preferred trading partners (register bidding groups, Brown, col. 6, lines 53-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Barni et al. patent to include the ability to designate trading partners as taught in Brown so as to increase the flexibility to customers and also to help increase the chances of the various loads being full when shipped.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Tuck et al., Giovannoli, Shavitz et al., and Conklin et al. patents all disclose online auction systems. The Purcell, Bahreman, and Brown et al. ('641) patents all disclose

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systems for online buying and selling of products. The Stein et al. Patent is directed to an electronic system of financial management that includes a third party.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra Snapp whose telephone number is 703-305-6940. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

ss 

June 18, 2003

  
**VINCENT MILLIN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**